

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D. C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of  
  
Local Exchange Carrier' Rates,  
Terms, and Conditions for  
Expanded Interconnection for  
Special Access

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) CC Docket No. 93-162  
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**OPPOSITION TO MOTIONS FOR EXTENSION OF TIME**

The Association for Local Telecommunications Services ("ALTS") hereby opposes the Motions filed by Bell Atlantic, GTE Service Corporation ("GTE"), and Pacific and Nevada Bell ("Pacific") seeking to extend the time in which they are required to file their direct cases in the Commission's investigation of their special access collocation tariffs.

On June 9, 1993, the Common Carrier Bureau partially suspended the special access collocation tariffs of numerous Tier 1 Local Exchange Carriers ("LECs") for the five-month statutory

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period and initiated the subject investigation.<sup>1</sup> The Bureau issued its Designation Order on July 23,<sup>2</sup> calling for the submission of LEC direct cases by August 13 with oppositions and rebuttals due by September 10 and September 20, respectively. Bell Atlantic, GTE and Pacific have requested extensions of the August 13 deadline ranging from four weeks (Bell Atlantic) to more than six weeks (GTE). GTE and Pacific have also requested additional time for rebuttals, ranging from four days (GTE) to twenty days (Pacific).

These requests constitute another attempt to "game" the Commission's expanded interconnection policies. The plain objective is to further postpone the opportunity for effective collocation-based competition while further entrenching their monopoly positions using the increased rate flexibility and rate restructuring the Commission intended to be linked to, and dependent on, the realization of expanded interconnection.

The schedule set by the Bureau is fully consistent with the five-month statutory suspension period established in Section 204(a) of the Communications Act. It would maintain the possibility that the Commission could take at least some corrective action regarding the grossly unreasonable collocation tariffs before the current partial suspensions expire. The grant

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<sup>1</sup> *Ameritech Operating Companies, Transmittal Nos. 697, et al.*, 8 FCC Rcd 4589 (1993). ("Investigation Order")

<sup>2</sup> *Order Designating Issues for Investigation*, DA 93-951 (rel. July 23, 1993) ("Designation Order").

of the requested extensions of time, by contrast, would ensure that even the limited partial suspensions ordered by the Investigation Order would be lifted before corrective action can be taken by the Commission.<sup>3</sup> The result would be to reward these LECs for filing plainly unreasonable tariffs by permitting them to once again postpone the date by which we might see lawful tariffs in effect. It would validate a game plan of forestalling actual collocation benefits, for both switched and special access, while gaining the advantages of restructured transport rates.<sup>4</sup>

Until reasonable and cost-justified special access collocation tariffs are in effect, the Commission's fundamental objective in ordering expanded interconnection will be completely thwarted. The landmark decisions of last Fall - of which the Commission is justifiably proud - have little value, to CAPs or to consumers, so long as the LECs are able to preclude economic collocation and effective competition by means of collocation tariffs that set excessive prices and unduly restrictive terms

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<sup>3</sup> Indeed, Pacific's request would postpone the filing of its rebuttal case until November 11, after the suspensions expire and its original tariff filing takes effect.

<sup>4</sup> When the Commission stated in its *Second Notice of Proposed Rulemaking* concerning switched transport (7 FCC Record 7740) that "expanded interconnection for switched transport should become effective no later than the interim transport rate structure does" and targeting both for November 1, 1993, (*Second Notice* at 7746), the Commission clearly contemplated that reasonable and lawful tariffs for special access collocation would long since have been in effect, not mired in an investigation with no end in sight.

and conditions. Thus, the requests must be viewed as nothing less than asking the Bureau to postpone the implementation schedule set forth in its Expanded Interconnection Order.<sup>5</sup>

The LECs have already achieved a *de facto* postponement of the collocation schedule by filing collocation tariffs that are so unreasonable as to be contemptuous of the Commission's policy goals. At the same time, they have persuaded the Commission to turn its back on one of the fundamental tenets of its "balanced" expanded interconnection policies by allowing the LECs to proceed with transport restructuring and zone pricing flexibility before collocation competition is made possible, for special access not to mention switched access. In this context, it is particularly troubling that the LECs now use the transport tariff filing schedule set by the Commission as a reason why they cannot proceed more quickly with the special access collocation tariff investigation.<sup>6</sup> Thus, they would drive yet another wedge in the large crack they have already made between expanded interconnection for their competitors and new competitive advantages for themselves.<sup>7</sup> The Bureau must not condone such

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<sup>5</sup> *Expanded Interconnection with Local Telephone Company Facilities*, 7 FCC Rcd 7369 (1992).

<sup>6</sup> See, Bell Atlantic Motion at 3, and GTE Motion at 2.

<sup>7</sup> Besides frustrating the Commission's intent and schedule by filing grossly unreasonable collocation tariffs, the LECs have already been successful in getting their "relief" before they face real increased competition by (i) the Bureau's premature approval of certain LEC zone density pricing plans, (ii) the Commission's approval of a revised transport rate structure before it approved the counterpart switched access

gaming of the Commission's expanded interconnection policies by the grant of the extensions.

Even putting aside the overarching issue of Commission's stated intention that relief for the LECs would only come because of, and coincident with, the availability of meaningful expanded interconnection for their competitors, the requests would not appear to be justified. These LECs have long been on notice that they would likely have to provide additional cost support to justify their tariffs. Although the specific issues to be investigated, and the precise form of the data they are required to present, were not identified until the release of the Designation Order, it cannot reasonably be contended that either the issues or the data requirements come without notice.<sup>8</sup> Thus,

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expanded interconnection, and (iii) the approval of filing schedules for transport and switched interconnection tariffs that will allow the LECs to advance their transport rates by a minimum of 75 days before switched transport tariffs before effective. Indeed, after they had secured Commission action on their transport rates they mounted a well organized (and obviously previously planned) effort to side-track Commission approval of switched transport collocation. Moreover, there is every reason to expect that the same tactics employed by the LECs to date to delay the effective availability of special access collocation will be used to delay reasonable tariffs offering switched transport collocation.

<sup>8</sup> The issues raised by the filings of the parties regarding the tariffs put the LECs on notice of the possible need to respond to those matters. In addition, it goes without saying that the LECs understand the need to cost justify their rates and have readily available the kind of information the Bureau has requested regarding the underlying costs of the services they have proposed. Such information should have been used in the formulation of the filed rates. In any event, ALTS must assume that the Bureau carefully considered the nature of its information request and the effort required to respond in setting the filing schedule.

while ALTS understands that the Bureau's information requirements are not insignificant and will require, and warrant, careful attention and significant effort, lack of notice and summer vacations do not justify the lengthy extensions requested.

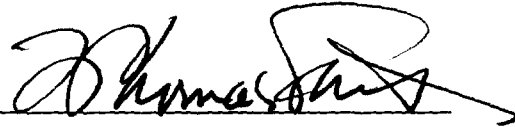
Finally, Pacific's argument that "no party will be prejudiced" by the requested extensions is not credible. To be sure, it is in the interests of all parties to build a satisfactory record, and the accounting order will provide a measure of downside protection for parties who decide they must take service under the existing tariffs. However, more than a dozen of the issues set for investigation involve matters other than rates, and for these the accounting order offers no recourse. More importantly, as the CAP industry has made plain to the Commission, the rates and terms set by the current tariffs are so unreasonable as to discourage, rather than encourage, collocation. Therefore, without major changes to the tariffs, competitive providers will simply elect not to collocate. An accounting order offers no relief for a party that does not use the service in the first instance. Thus, both competitors and their customers will be prejudiced in a very real manner by each day of delay in the availability of reasonable and lawful collocation tariffs.

For these reasons, the expansive requests of Bell Atlantic, GTE, and Pacific Bell and Nevada Bell should be denied as contrary to the Commission's basic scheduling concepts for expanded interconnection and as contrary to the public interests.

Respectfully submitted,

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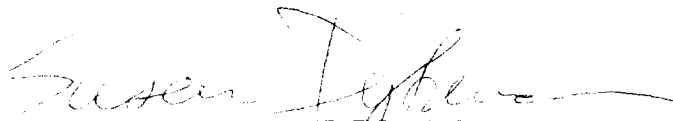
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August 6, 1993

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of August, 1993, a copy of the foregoing OPPOSITION TO MOTIONS FOR EXTENSION OF TIME was served via hand delivery\* or first class mail, postage prepaid, to the parties on the attached list.

  
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